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Randall K. Woods

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.

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EXAMINER

PHONGSVIRAJATI, POONSIN

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/790,632	<b>Applicant(s)</b> WOODS ET AL.	
	<b>Examiner</b> SIND PHONGSVIRAJATI	<b>Art Unit</b> 3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-22,24-42 and 44-61 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-22,24-42 and 44-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20081027</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1, 4, 21, 22, 24-41, 44, and 61 have been currently amended, claims 3, 23, 43 have been canceled. Claims 1-2, 4-22, 24-42, 44-61 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-2, 4-22, 24-42, 44-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zak et al. (US 2002/0004729 A1) in view of Burge et al. (US 2003/0200123 A1).

5. As to **Claim 1, 21, and 41**, Zak teaches a method, a program instructions executable, and an insurance claim processing system comprising:

- selecting a body part on at least one human body representation (Zak, Fig. 3-4);
- displaying, in response to selecting the body part, input selection information related to the selected body part (Zak, Fig. 4 and paragraph 77-79); and
- receiving an input selection via the displayed input selection information (Zak, Fig. 4 and paragraph 80);
- wherein the input selection information comprises a listing of at least one subpart (Zak, Fig. 4 and paragraph 76)

But, Zak does not specifically disclose providing a graphical display in an insurance claim processing system. However, Burge does disclose using a graphical representation of a human body within an insurance claim processing system (Burge, Abstract and paragraph 49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included a body representation for injury reports inside an insurance claim processing system in order to submit a more clear and concise claims report for emergency medical services. One would have been motivated to use software that is capable of generating a virtual human for claims processing since it is well known in the art for human and dummy representation, such as the Bodybuilder and Anthropos

products by the TecMath corporation and Mannequin Pro from NexGen Ergonomics (Burge, paragraph 49).

6. As to **Claim 2, 22, and 42**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein the input selection information further comprises a listing of at least one injury for at least one subpart and the input selection comprises selecting an injury from the listing of at least one injury (Zak, Fig. 4 and paragraph 79).

7. As to **Claim 4, 24, and 44**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein the listing of at least one injury for at least one subpart appears for the subpart when the subpart is selected from the listing of at least one subpart (Zak, Fig. 4 and paragraph 76).

8. As to **Claim 5, 25, and 45**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein the input selection information for the selected body part comprises a listing of at least one subpart and a listing of at least one injury (Zak, Fig. 4).

9. As to **Claim 6, 26, and 46**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein the input selection information for a listing of at least one injury further comprises a listing of at least one treatment (Zak, Fig. 9 and paragraph 87).

10. As to **Claim 7, 27, and 47**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein a listing of at least one

treatment appears when an injury is selected from a listing of at least one injury (Zak, Fig. 9 and paragraph 87).

11. As to **Claim 8, 28, and 48**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein at least one human body representation comprises a representation of at least one of a human musculature, a human nervous system, a human skeletal system, and a human skin (Zak, Fig. 3).

12. As to **Claim 9, 29, and 49**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising displaying a menu near the selected body part (Zak, Fig. 3-4).

13. As to **Claim 10, 30, and 50**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising distinguishing the body part selected by at least one of highlighting, outlining, and circling the selected body part (Zak, Fig. 3).

14. As to **Claim 11, 31, and 51**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising distinguishing a body part for which input selection has been received (Zak, Fig. 4 and paragraph 79).

15. As to **Claim 12, 32, and 52**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein an indicator used for a

body part that is currently selected is different from a body part from which an input selection has been received (Zak, Fig. 4 element 206).

16. As to **Claim 13, 33, and 53**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising displaying a more detailed view of a body part, in response to the body part being selected in the graphical display (Zak, Fig. 4).

17. As to **Claim 14, 34, and 54**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein the listing of at least one subpart appears in a popup menu (Zak, Fig. 2-4, whereas the transition of screens from Fig. 2 to Fig. 4 can be interpreted as a popup menu).

18. As to **Claim 15, 35, and 55**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising displaying a popup menu of at least one injury type for a subpart when the subpart is selected (Zak, Fig. 2-4).

19. As to **Claim 16, 36, and 56**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, wherein a subpart in the listing of at least one subpart is a node, wherein selecting the node displays a listing of at least one injury for the subpart (Zak, Fig. 4 and paragraph 79).

20. As to **Claim 17, 37, and 57**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising displaying a listing of received input selections (Zak, Fig. 4 and paragraph 79).

21. As to **Claim 18, 38, and 58**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising displaying an indicator next to a listing of a received input selection to indicate whether the input selection should be considered in a respective insurance claim (Zak, Fig. 2 elements 241-243).

22. As to **Claim 19, 39, and 59**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising displaying a listing of available human body representations (Zak, Fig. 3 element 210, where the human body representations are the front, right, left, and rear views).

23. As to **Claim 20, 40, and 60**, Zak teaches the method, the program instructions executable, and the insurance claim processing system, further comprising displaying an indicator relative to a listing of a human body representation to indicate the human body representations that have had input selections entered (Zak, Fig. 3 element 206).

24. As to **Claim 61**, Zak teaches a method, comprising:

- displaying a listing of at least one subpart associated with a body part on the human body representation (Zak, Fig. 4 and paragraph 77-79);
- receiving input corresponding to at least one body part on the at least one human body representation (Zak, Fig. 4 and paragraph 80); and
- highlighting, in response to receiving the input, at least one body part corresponding to the received input on at least one human body representation (Zak, Fig. 3-4 and paragraph 83).

But, Zak does not specifically disclose providing a graphical display in an insurance claim processing system. However, Burge does disclose using a graphical representation of a human body within an insurance claim processing system (Burge, Abstract and paragraph 49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included a body representation for injury reports inside an insurance claim processing system in order to submit a more clear and concise claims report for emergency medical services. One would have been motivated to use software that is capable of generating a virtual human for claims processing since it is well known in the art for human and dummy representation, such as the Bodybuilder and Anthropos products by the TecMath corporation and Mannequin Pro from NexGen Ergonomics (Burge, paragraph 49).

### ***Response to Arguments***

25. Examiner withdraws the previous 101 rejection, given Applicant's amendments .

26. Applicant's arguments filed 10/02/2008 have been fully considered but they are not persuasive.

Applicant argues that because the teachings of Zak does not meet the claim limitation, " displaying, in response to selecting the body part, input selection information related to the selected body part" because the problem form does not change. However, as the claim limitation is broadly stated, the claim limitation reads on the selectable input

regions on the chest, in response to selecting the body part, as clearly viewed in Fig. 4. For example, element 222 of Fig. 4 represents input selection information related to the selected body part. Applicant has only argued that the input selection information consists of only the problem form, however, no where in the claim does the input selection information only consist to the problem form. Examiner determines that Applicant has read limitations from the specifications into the claim. Applicant argues Burge does not appear to disclose a graphical representation of a human body. Examiner respectfully disagrees with the Applicant's interpretation of the prior art. The virtual representation of Claimant, as taught by Burge, reads on "a graphical representation of a human body". Burge analogizes a virtual human with human and dummy representation from Burge's statement, "Software capable of generating a virtual human from these data inputs is known in the art for human and dummy representation". As to Applicant arguments to Claim 61, Applicant continues to argue the problem list and that the term, "highlighting" only applies to a complaint in the problem list in the disclosure of Zak. However, the word, "highlighting", as defined by Webster's II Dictionary (Third Edition) is defined as, "To emphasize". Once again, this is clearly done in element 222 of Fig. 4. As to Applicant arguments to dependent claims 4, 24, and 44, a listing of at least one injury for at least one subpart and the input selection comprises selecting an injury from the listing of at least one injury is clearly visible in Fig. 4. For example, in Fig. 4, primary pain has crushing listed, Fig. 3 has no such complaint. As to the arguments to dependent claims 7, 27, and 47, Applicant argues

that Zak does not appear to teach or suggest that a listing of at least one treatment appears when an injury is selected, however, Fig. 9 clearly shows this limitation. Applicant has cited paragraph 85 but this citation has no relevance to the treatment section, paragraph 85 refers to the call section for the EMS providers, **not the treatment section**. The Examiner has as cited Fig. 9 and paragraph 87 which clearly teaches dependent claims 7, 27, and 47. Examiner does not agree with Applicants narrow interpretation of the claim language for dependent claims 10, 30, and 50. Fig. 3 clearly shows distinguishing the body part selected by at least one of highlighting, outlining, and circling the selected body part. As to Applicant arguments to dependent claims 4, 24, and 44, entry and/or removal of a complaint is a clear indication of whether the input selection should be considered.

***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIND PHONGSVIRAJATI whose telephone number is (571) 270-5398. The examiner can normally be reached on Monday - Thursday 8:00am-5:00pm (ET).

4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/S. P./  
Examiner, Art Unit 3686  
12 December 2008

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
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